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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,401	02/25/2002	Lynne Marie Evans	013.0226.01	6885

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CASCADIA INTELLECTUAL PROPERTY
500 UNION STREET
SUITE 1005
SEATTLE, WA 98101

EXAMINER

BRIER, JEFFERY A

ART UNIT	PAPER NUMBER
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2628

MAIL DATE	DELIVERY MODE
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05/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/084,401

Applicant(s)

EVANS, LYNNE MARIE

Examiner

Jeffery A. Brier

Art Unit

2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,8-11,14,15,18,21-24,27-33,35-41,43-47,49-51 and 53-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,5,8-11,14,15,18,21-24,27-33,35-41,43-45 and 49 is/are allowed.
- 6) ☒ Claim(s) 46,47,50,51 and 53-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/8/2007 has been entered.

Response to Amendment

2. The amendment filed on 3/8/2007 has been entered. The amendments to claims 1, 8, 14, 15, 21, 28, and 36 overcome the previous 35 USC 101 and 112 rejections. Claims 1, 2, 5, 8-11, 14, 15, 18, 21-24, 27-33, 35-41, 43-45, and 49 are allowed. The amendment to claims 46, 47, 50, 51, and 53-56 are incomplete and will be addressed below in a 35 USC 112 second paragraph rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 46, 47, 50, 51, and 53-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 46, 50, 53, and 55:

These claims have the same problems and claim 46 will be addressed for this group. At lines 5 and 6 of claim 46 "the at least one additional set of the stored clusters" lack antecedent basis in the claim. At line 6 of claim 46 the location of the placing of the clusters is not claimed leaving the claim incomplete.

Claims 47, 51, 54, and 56:

These claims have the same problems and claim 47 will be addressed for this group. At line 4 of claim 47 the location of the placing of the additional cluster is not claimed leaving the claim incomplete.

Allowable Subject Matter

5. Claims 1, 2, 5, 8-11, 14, 15, 18, 21-24, 27-33, 35-41, 43-45, and 49 are allowed and similarly dependent claims 46, 47, 50, 51, and 53-56 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

6. The following is a statement of reasons for the indication of allowable subject matter:

Independent claims 1 and 14:

These claims are very similar but they do have some differences. Claim 1 claims "to place a center of a further selected cluster outside of the anchor point on the vector and to limit overlap of the chosen cluster and the further selected cluster" and "to arrange one or more of the remaining selected clusters into an arrangement of clusters

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that each have a center originating outside of the anchor point and on the vector” both of which the prior of record fails to teach or suggest. Claim 14 claims “placing a center of a further selected cluster outside of the anchor point on the vector and limiting overlap of the chosen cluster and the further selected cluster” and “arranging one or more of the remaining selected clusters into an arrangement of clusters that each have a center originating outside of the anchor point and on the vector” both of which the prior of record fails to teach or suggest.

Independent claims 28 and 36:

These claims are very similar but they do have some differences. Claim 28 claims “to place a center of a further selected cluster outside of the anchor point on the vector and to limit overlap of the chosen cluster and the further selected cluster” and “to place the center of a selected cluster and to graft the clusters in the remaining placeable clusters lists in the grouping outside the anchor point and along the vector” both of which the prior of record fails to teach or suggest. Claim 36 claims “placing a center of a further selected cluster outside of the anchor point on the vector and limiting overlap of the chosen cluster and the further selected cluster” and “placing the center of a selected cluster and grafting the clusters in the remaining placeable clusters lists in the grouping outside the anchor point along the vector” both of which the prior of record fails to teach or suggest.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gallivan, US Patent No. 7,196,705, is a child of previously cited Gallivan, US Patent No. 6,888,548, patent.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A Brier whose telephone number is (571) 272-7656. The examiner can normally be reached on M-F from 7:30 to 4:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (571) 272-7664. The fax phone Number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jeffery A Brier
Primary Examiner
Division 2628